

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION**

**SPECIAL ORDER BY CONSENT**

**ISSUED TO**

**RAPIDAN SERVICE AUTHORITY**

**FOR**

**LAKE OF THE WOODS SEWERAGE COLLECTION SYSTEM  
(VPDES PERMIT NO. VA0083411)**

**SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code ' ' 62.1-44.15(8a) and 10.1-1185 between the State Water Control Board and Rapidan Service Authority regarding the Lake of the Woods sewerage collection system for the purpose of resolving certain alleged violations of the State Water Control Law and Regulations.

**SECTION B: Definitions:**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code ' ' 62.1-44.7 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the

Commonwealth of Virginia as described in Va. Code ' ' 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.
5. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
6. "RSA" means Rapidan Service Authority, a public service authority chartered in 1969 for the purpose of providing water and sewer services to Madison, Greene, and Orange Counties.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. The Lake of the Woods is a planned community of approximately 4,200 lots in Orange County, Virginia. The developer of Lake of the Woods installed individual septic systems to handle domestic wastewater when homes were first being built in the late 1960s. When the septic systems quickly failed due to soil characteristics, the developer installed the Lake of the Woods sewage treatment plant and a closed-air vacuum sewerage collection system to collect and convey wastewater to the plant.
2. From the outset, the Lake of the Woods sewerage collection system experienced significant problems. In general, the system is designed so that two homes are connected to a 300-gallon collection tank buried in an adjacent easement in one of the yards. When the tank fills to a set level, a pressure valve opens and the sewage is vacuumed into the collection system and carried to one of 13 vacuum pump stations located around the community where it is pumped via force main to the wastewater treatment plant. The vacuum system was intended for use in flat terrains rather than the topography of the Lake of the Woods community which is situated amidst rolling, wooded hills surrounding the Lake. By the 1980s, raw sewage in the vacuum system was backing up onto private lots and into homes approximately 50 to 60 times per day. Also during that time, the Lake of the Woods sewage treatment plant's performance declined, and it routinely failed to meet applicable Permit effluent limitations.
3. To help address these significant problems, RSA, at the request of the Orange County Board of Supervisors, voluntarily acquired the water and wastewater systems from the private owner on November 1, 1987.
4. Pursuant to a Consent Special Order issued by the Board in 1990 and amended in 1991, and a second Order issued in 1992, RSA made substantial capital improvements to the system, including the construction of the new Wilderness wastewater treatment

plant and extensive upgrades to the Lake of the Woods collection lines and vacuum pump stations. In addition, RSA has established and implemented an effective operation and maintenance program, including on-site staff to respond to collection system problems. RSA asserts that all of these measures have been accomplished at a significant financial cost to Lake of the Woods residents.

5. Through these capital and operation and maintenance efforts, RSA has succeeded in reducing sewage overflows from an average of 50 or 60 per day to 1 to 2 per day. These overflows are typically less than 10 gallons each, and occur for a variety of reasons including, among other things, mechanical problems with the collection tank's pressure valve, damage from digging by utility crews, leaks in lines which reduce the vacuum, clogging due to disposal of inappropriate materials by residents, and line joint deterioration from age. Overflows now occur outdoors rather than backing up into individual homes as before, because RSA has installed overflow vents near the collection tanks. RSA staff responds promptly to overflow complaints by vacuuming out the affected pipe and then cleaning the spill area and applying lime. Staff also repairs or replaces malfunctioning valves and locates and repairs vacuum leaks.
6. On May 15, 2003, DEQ inspected the Lake of the Woods collection system and requested from RSA information regarding system operations. As a consequence of that inspection and the information provided by RSA, DEQ issued a Notice of Violation ("NOV") to RSA on June 4, 2003, alleging that RSA may be in violation of Va. Code § 62.1-44.5.A, 9 VAC 25-31-50.A, and VPDES Permit No. VA0083411 for unpermitted discharges of sewage into state waters. The NOV specifically alleges the Lake of the Woods sewerage collection system experienced at least 16 sanitary sewer overflows between April 6 and April 12, 2003, and that five of the overflows occurred on lakefront lots.
7. RSA asserts that it has no information that any of these overflows have reached state waters.
8. DEQ met with RSA representatives in April, May, and June 2003, to discuss RSA's plans for addressing the overflows from the Lake of the Woods sewerage collection system. On July 10, 2003, RSA submitted to DEQ a plan and schedule for submitting an engineering study to evaluate alternatives for minimizing overflows from the collection system, including replacing or upgrading the collection system, and for implementing interim measures to reduce the number of overflows from the system. The plan and schedule have been incorporated into Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly the Board, by virtue of the authority granted it in Va. Code ' 62.1-44.15(8a), orders RSA, and RSA agrees, to perform the actions described in Appendix A of this Order.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of RSA, for good cause shown by RSA, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves those violations specifically identified herein, including those matters addressed in the NOV issued June 4, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, RSA admits the jurisdictional allegations, but RSA does not admit the factual findings and conclusions of law contained herein.
4. RSA consents to venue in the Circuit Court of Orange County for any civil action taken to enforce the terms of this Order.
5. RSA declares it has received fair and due process under the Administrative Process Act, Va. Code ' 2.2 - 4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by RSA to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. RSA shall be responsible for its failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. RSA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. RSA shall notify the DEQ Regional Director of NVRO in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order.

Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within five days of learning of any condition above, which RSA intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and RSA. Notwithstanding the foregoing, RSA agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to RSA. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve RSA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, RSA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

RSA voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia  
City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_ day of

\_\_\_\_\_, 2003 by \_\_\_\_\_, who is  
(name)

\_\_\_\_\_ for RSA on behalf of RSA.  
(title)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

## **APPENDIX A SCHEDULE OF COMPLIANCE**

RSA shall:

1. Beginning in September 2003, submit by the 25<sup>th</sup> of each month a report of overflows from in the Lake of the Woods sewerage collection system to DEQ. The report shall include for each overflow (i) the date it occurred, (ii) the location by section and lot number, (iii) an estimate of the volume, (iv) whether any of the overflow reached State waters, and (v) corrective actions taken;
2. By September 1, 2003, submit to DEQ for review and approval a plan and schedule for implementing additional interim measures to minimize overflows from the Lake of the Woods collection system including: (a) development of written outreach materials and procedures for distribution by the Lake of the Woods Association to Lake of the Woods maintenance staff and independent contractors working in the Lake of the Woods community to protect the vacuum sewerage collection system from damage by them in the course of their construction work in the Lake of the Woods community; and (b) development of a policy to help ensure that all independent contractors comply with state-mandated Miss Utility procedures when working within the Lake of the Woods community. Upon approval by DEQ; the plan and schedule shall become and enforceable part of the Order;
3. By October 1, 2003, hold a public meeting in conjunction with DEQ for the benefit of Lake of the Woods residents and other interested parties to provide information and to answer questions regarding the Lake of the Woods sewerage collection system;
4. By November 1, 2003, submit to DEQ for review and comment a proposed Scope of Work for an engineering study to evaluate alternatives for minimizing overflows from the Lake of Woods sewerage collection system including replacement of or upgrades to the existing vacuum collection system. The proposal should also include provisions for evaluating (i) collection system components; (ii) the need for flow meters and alarms at pump stations; and (iii) those areas within the collection system service area with a low retention capacity;
5. By November 1, 2003, submit to DEQ for approval a plan for responding to sanitary sewer overflows within the Lake of the Woods sewerage collection system to include: (a) protocols for on-site response to overflows; (b) maintenance of two months'

inventory of critical replacement parts for residential collector tanks and residential valves; (c) a list of emergency response vendors for electrical work and septic tank pump trucks; (d) a list of after-hours emergency contact information for electric utility personnel; (e) cross-training of appropriate maintenance personnel on operation of multiple vacuum sewer system areas and operation of pump truck; (f) monthly updates of master vacuum sewer system maps with information obtained from fieldwork during the prior month and annual printing of the updated master sewer maps; and (g) topographic maps of the vacuum system area. Upon approval by DEQ, the plan shall become an enforceable part of the Wilderness WWTP operations and maintenance manual;

6. By July 1, 2004, submit to DEQ the completed engineering study and develop a set of "as built" plans for the Lake of the Woods collection system from the existing master sewer system maps and, to the extent feasible, from microfiche to be provided by the Virginia Department of Health; and
7. By August 1, 2004, meet with DEQ to discuss (i) the completed engineering study and (ii) implementation of one of the alternatives presented therein.